

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INCOME TAX REFERENCE NO. 1168 OF 1998

The Commissioner of Income-tax. ... Applicant.

V/s.

The Indian Card Clothing Co.Ltd.

Pimpri, Pune- 18.

... Respondent.

A.S.Rao for the Applicant.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 25th April 2005.

P.C. :

. Heard learned counsel for the applicant.

The tribunal has referred following questions for

the opinion of this Court:

"1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the provisions of section 40(c) and not those of 40A(5) should be applied in the case of employee directors?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the amount of House rent allowance paid to the employees to the extent it is exempt u/s.10(13A) of the Income-tax Act, should not be included in the computation of disallowance made u/s. 40A(5) of the Act?"

2. The first question has already been answered by the Division Bench of this Court in the case of **C.I.T. v. Hico Products Ltd.**, (1993) 201 ITR 567 (Bom) in favour of assessee and against the revenue.

3. The second question has already been

answered by the Division Bench of this Court in the case of **C.I.T. v. Hindustan Petroleum Corpn. Ltd.**, (1991) 187 ITR 1 (Bom) in favour of assessee and against the revenue.

4. In this view of the matter, both the questions are answered in affirmative for the reasons stated in the above referred judgments.

5. Reference stands disposed of accordingly with no order as to costs.
